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December 3, 2012

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The Honorable Martin Gruenberg  
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The Honorable Mary Schapiro  
Chairman  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549

The Honorable Thomas Curry  
Comptroller of the Currency  
Office of the Comptroller of the  
Currency  
250 E Street, S.W.  
Washington, DC 20219

**Re: Qualified Residential Mortgages and Risk Retention Proposed Rule, See 76  
Fed. Reg. 24090**

Dear Sirs and Madam:

The Business Roundtable ("BRT") is an association of chief executive officers of leading U.S. companies with more than \$7.3 trillion in annual revenues and nearly 16 million employees.

We write to share the combined perspectives of CEOs at these member companies regarding the risk retention requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") and the proposed rule referenced above. Although the formal comment period for the proposed rule has ended, we nonetheless write to share our views because of the rule's potential impact on mortgage underwriting and credit availability. Our members—who lead companies representing all sectors of the U.S. economy—have a strong interest in ensuring that consumers have access to affordable credit to support both a robust housing recovery and overall economic growth.

In an attempt to improve underwriting and align interests, Dodd-Frank requires securitizers and/or originators to retain at least five percent of the credit risk of loans packaged and sold as mortgage-backed securities. To avoid imposing significant costs on responsible, creditworthy borrowers, Congress created an exemption for Qualified Residential Mortgages (“QRMs”). QRMs are intended to be comprised of mortgages with product features and sound underwriting standards that historically have been proven to reduce default risk. We believe it is critical that housing regulators adopt risk retention rules and a QRM definition that responsibly meets statutory objectives, considers other reforms and avoids serious disruptions in the mortgage credit markets.

The proposed risk retention rule—particularly when combined with other reforms and mandates—could substantially impact both credit availability and overall lending capacity in the private mortgage market. An unnecessarily narrow QRM definition that does not adequately cover a sufficiently large percentage of loan products and underwriting standards could threaten the nation’s economic recovery by making financing more expensive or unavailable.

BRT urges regulators to carefully craft the risk-retention rule to: 1) remove rigid standards that block consumer access to credit; 2) enable the private mortgage market; and 3) ensure coordination with other reforms and mandates to promote a sound and vibrant real estate finance market.

#### **I. Ensure consumer access to credit**

As required by Dodd-Frank, the proposed risk retention rule would exempt QRMs from the risk retention requirement and establish criteria under which a residential mortgage would qualify as a QRM. The proposed QRM criteria generally would exclude residential mortgages with features such as negative amortization, interest-only payments, or significant interest rate increases. The proposed risk retention rule also would establish underwriting standards for QRMs including, for example, a maximum front-end debt-to-income ratio of 28 percent, a maximum back-end debt-to-income ratio of 36 percent, a maximum loan-to-value ratio of 80 percent for home purchases, a 20 percent down payment requirement for home purchases, and credit history restrictions. The QRM definition is critical to ensuring that the housing finance system includes quality mortgages that are well-underwritten and broadly available. An overly restrictive QRM definition could essentially lock homebuyers out of all but the government-insured mortgage market.

As currently proposed, the term “QRM” would be defined narrowly to include only a small proportion of mortgages. The restrictive definition would penalize many responsible consumers with demonstrated good credit who seek safe loan products and lack the savings or equity to comply. Moreover, many lenders would be reluctant to offer non-QRM mortgages unless they can cover the higher costs imposed by the risk retention mandate and other requirements.

It is important to note that Congress considered and rejected these onerous thresholds because historically, loans with low down payments accompanied with strong underwriting and stable products have performed well. But instead of following Congress’ lead, the proposed rule would delay homeownership aspirations for many first-time homebuyers, particularly low- and moderate-income families that traditionally look at housing as their most significant means to build wealth over time.

## **II. Enable the private mortgage market**

Under normal market conditions, home mortgage financing is fundamentally a private sector activity. In the aftermath of the financial crisis, however, private capital has not sufficiently returned to the mortgage market. Currently, most new U.S. mortgages are backed by government sponsored enterprises (“GSEs”) and the Federal Housing Administration. A resurgence of the private mortgage market is needed to reduce the government’s oversized role in housing finance.

The proposed risk retention rule, however, creates additional barriers for private capital, more of which is needed to reduce the GSE mortgage portfolio over time. The “ability-to-repay” regulations, the risk retention requirements, the Premium Capture Cash Reserve Account (“PCCRA”), and other regulatory initiatives—including accounting rule changes and new capital requirements under Basel III—will greatly hinder credit availability and a housing recovery.

Specifically, the PCCRA would have negative consequences for non-QRM loans, particularly private non-QRM lending. The PCCRA requirement, which is not mandated by Dodd-Frank, would require securitizers to set aside funds in a reserve account until all loans in a securitization are paid off. Such a requirement would likely force borrowers to pay upfront all loan origination costs to address PCCRA’s delayed cost recovery.

Moreover, because loans sold to the GSEs would be exempt from risk retention and the PCCRA, these provisions would stymie private market incentives. In sum, the incremental up-front economic burden imposed by PCCRA, and the high down payments required to meet the QRM exemption, would delay for many years homeownership opportunities for many credit-worthy borrowers. For these reasons, it is extremely important that PCCRA be removed from the final risk retention rule.

## **III. Harmonize and coordinate with similar rules and regulations**

The proposed risk retention rule is one of several housing-related regulations that are being promulgated as a result of Dodd-Frank. Another is the “ability-to-repay” rule, which would require lenders to make a reasonable and good-faith assessment of a borrower’s ability to repay a mortgage. The “ability-to-repay” and risk retention rulemakings are related in that the former establishes criteria for designating “qualified mortgages,” which would be underwritten according to standards that make it reasonable to expect a borrower’s ability to repay. Dodd-Frank requires that the definition of QRM be no broader than the Qualified Mortgage (“QM”) definition under the new “ability-to-repay” requirement for mortgages. BRT believes that these two rules, and their closely related definitions of “qualified” mortgages, should be harmonized and coordinated with one another and with other rules and regulations impacting the extension of mortgage credit to consumers.

If the definitions of QM, QRM, and other mandates unnecessarily differ, or if the cumulative burden of these mandates unreasonably increases compliance risks and costs, creditworthy borrowers would experience adverse consequences—reductions in credit availability, higher costs and unnecessary obstacles to homeownership—that impact a housing recovery. Ultimately, without carefully structured and coordinated reforms, a housing market recovery will be delayed with direct and indirect impacts on consumer assets and spending, local communities and employment, and businesses of all types and sizes. We urge policymakers to conduct cost-benefit analyses and to coordinate policies in order to ensure that all housing-related regulatory initiatives are carefully considered, harmonized, and drafted

in a way that supports borrower access to affordable credit and an overall housing recovery at this crucial time.

#### **Conclusion**

We appreciate your consideration of our comments regarding the breadth of the QRM definition as part of the risk retention rule. These and other rules will have a profound effect on the housing market and its many stakeholders—consumers, lenders and servicers, investors that fund lending, as well as the entire real estate market and related service providers—who fuel job creation and the U.S. economy.

Sincerely,

A handwritten signature in black ink, appearing to read "D.S. Fulton", with a long horizontal flourish extending to the right.

Daniel S. Fulton  
President & CEO  
Weyerhaeuser Company  
Chair, Business Roundtable Subcommittee on Housing